



**DEPARTMENT OF THE NAVY  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON NAVY YARD DC 20374**

**IN REPLY REFER TO:**

5720

Ser 13/3FA0462.22

October 9, 2022

Ms. Adelaide P. Kahn-Fowler  
900 N Washington Street  
Suite 234  
Alexandria, VA 22314

Dear Ms. Kahn-Fowler:

**SUBJECT: FREEDOM OF INFORMATION ACT REQUEST DON-NAVY-2022-006865**

This responds to your above-referenced Freedom of Information Act (FOIA) request of April 8, 2022, in which you requested “all information pertaining to victim preferences for civilian court vs. military court as outlined in FY 2015 § 534(b) (2014) and information pertaining to training for Victims’ Legal Counsel (VLC) to assist victims in making an informed decision as outlined in FY 2019 § 550C(a) (2019).”

This final response is provided on behalf of the Office of the Judge Advocate General (OJAG). Your request was processed in accordance with the FOIA, 5 U.S.C. § 552, the Privacy Act, 5 U.S.C. § 552a, and the Department of the Navy FOIA Program, SECNAVINST 5720.42G.

Individuals who were most knowledgeable about the likely location of responsive records searched computer databases and physical records for any documents responsive to your request. Records associated with your request consist of 1,432 pages. I am partially releasing 672 pages of records. My review included consideration of the “foreseeable harm standard” (i.e., that information which might technically fall within an exemption should not be withheld from a FOIA requester unless the agency can identify a foreseeable harm or legal bar to disclosure). As a result, some of the information released in these records is subject to withholding under section (b) of the FOIA but is nevertheless being provided to you. The release of this material to you by the Department of the Navy is discretionary and does not constitute a waiver of our right to claim this exemption in similar records in the future.

The applied redactions are made pursuant to FOIA exemptions (b)(5), (b)(6), and (b)(7)(C). The portions of the documents redacted under FOIA exemption (b)(5) contain inter-agency or intra-agency notations, attorney-client communications, and attorney-work product which are protected by the deliberative process, attorney-client, and attorney-work product

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privileges. The redactions pursuant to (b)(6) and (b)(7)(C) protect privacy-sensitive information, disclosure of which would constitute a clearly unwarranted invasion of personal privacy that is not outweighed by the FOIA public interest in disclosure.

Some documents identified in our search as responsive are not records maintained by the U.S. Navy. As such they have been referred to the responsible agencies including U.S. Coast Guard, Naval Criminal Investigative Services, and Office of the Secretary of Defense for processing.

In the course of our search, three publically available documents were identified that may also be responsive to your request. These materials, listed below, are not included in the records provided but can be publically accessed at the included website addresses:

- Department of Defense Instruction 1030.02, Victim Witness Assistance, available at: [https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/103002p.pdf?ver=w8fPyzgT\\_yqqSbFhoaRYPw%3d%3d](https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/103002p.pdf?ver=w8fPyzgT_yqqSbFhoaRYPw%3d%3d)
- Judge Advocate General Instruction 5800.7G, Manual of the Judge Advocate General, Chapter I, Section 0128, available at: [https://www.jag.navy.mil/library/instructions/JAGINST\\_5800.7G\\_CH-1.pdf](https://www.jag.navy.mil/library/instructions/JAGINST_5800.7G_CH-1.pdf)
- ALNAV 061/15, available at: <https://www.navy.mil/Resources/ALNAVs/Message/Article/2235132/new-requirement-to-consider-a-victims-preference-for-prosecution-by-court-marti/>

I am the official responsible for the processing of your request. This determination may be appealed, in writing, to OJAG, General Litigation Division (Code 14), located at 1322 Patterson Avenue, SE, Suite 3000, Washington Navy Yard, DC 20374-5066. Should you wish to appeal this matter, I recommend your envelope and statement bear the notation "FOIA Appeal" and include a copy of your initial request and a copy of this letter. Additionally, you are encouraged to provide an explanation of why you believe this determination is inadequate. Your appeal must be postmarked within 90 days of the date of this letter. You may also appeal via FOIA Online.

For any further assistance and to discuss any aspect of your request, you have the right to contact the DON FOIA Public Liaison at [DONFOIAPublicLiaison@navy.mil](mailto:DONFOIAPublicLiaison@navy.mil). Additionally, you have the right to contact the Office of Government Information Services (OGIS) to inquire about the FOIA mediation services they offer. The contact information of OGIS is: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

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If you have any questions, please contact Commander Brian Roach, JAGC, USN, who may be reached by e-mail at [brian.f.roach@navy.mil](mailto:brian.f.roach@navy.mil).

Sincerely,

S. E. MILEWSKI  
Deputy Division Director  
Administrative Law Division (Code 13)  
Office of the Judge Advocate General